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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/747,988	12/27/2000	Morinobu Endoh	107348-00047	3626

7590 08/28/2003

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EXAMINER

LISH, PETER J

ART UNIT	PAPER NUMBER
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1754

DATE MAILED: 08/28/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/747,988

Applicant(s)

ENDOH ET AL.

Examiner

Peter J Lish

Art Unit

1754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 11.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### DETAILED ACTION

Applicant's arguments filed 6/25/03 have been fully considered but they are not persuasive. Applicant argues that Sato teaches the use of mesophase pitch, but does not disclose a specific embodiment as to the treatment of the mesophase pitch. It is held by the examiner that the use of a different starting material does not limit the product. A precursor is carbonized and activated to form an activated carbon. No difference is seen between the activated carbon product of Sato, specifically that produced by the method of the embodiment utilizing vinyl chloride, and the activated carbon product of the instantly claimed invention.

Applicant argues that Shimodaira et al. teaches away from the present application in that it teaches the use of randomly aligned graphitic structure and therefore only teaches the use of "non-graphitizing" carbon. This is not the case, as evidenced by the teaching that phenol resin, an "easy-graphitizing" material, may be used as the carbonaceous starting material. Furthermore, Shimodaira teaches a means of producing an activated carbon material having a high area rate of edge faces, which includes steam or alkali activation of carbon materials at conditions within the same ranges taught in the present application.

Additionally, it is noted that the use of the term "or" in "carbonized material or mesophase pitch" of claim 8 appears to be a mistake. It is concluded that a carbonized material *of* mesophase pitch is meant. Correction is required.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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Claim 8 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Sato et al. (JP 10149958 A) alone or in view of Shimodaira et al. (USPN 6,038,123).

The rejection of the previous office action, paper #10, is maintained in its entirety and incorporated herein by reference.

***Claim Rejections - 35 USC § 103***

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sato et al.

Sato et al. disclose the production of an activated carbon for use in an electric double-layer capacitor. The production involves carbonizing, pulverizing, and activating an easily graphitizable organic substance, such as mesophase pitch and vinyl chloride resins (column 7, lines 36-45). The easily graphitizable organic precursor is carbonized at a temperature of below 800 °C and activated by an alkali activation treatment. The activation comprises heating the carbonized material to a temperature between 500 and 1000 °C for a time period between 0 and 20 hours. An alkali metal hydroxide, such as potassium hydroxide, is mixed with the carbonized material in a proportion of preferably between 1.8-2.2 parts by weight of alkali per 1 part by weight of the carbonized material.

It would have been obvious to one of ordinary skill at the time of invention to use the specific treatment conditions of applicant's example IV in the process of Sato et al., as they fall within the desired conditions of Sato et al. Because the activated carbon of Sato et al. is produced in a manner identical to that of the applicant, it follows that the properties of the activated carbon produced by Sato et al. are identical to those claimed by applicant. No difference is seen between the activated carbon of Sato et al. and that of the instantly claimed invention.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter J Lish whose telephone number is 703-308-1772. The examiner can normally be reached on 9:00-6:00 Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached on 703-308-3837. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



PL

**STUART L. HENDRICKSON  
PRIMARY EXAMINER**